

Blue Ribbon Committee on DEQ's Wastewater Management Program
~~March 9~~ April 20, 2004
Draft Conference Call Summary

<i>Committee members present</i>	<i>Alternates Present</i>
Bob Austin, League of Oregon Cities	None
Michael Campbell, Stoel Rives, LLC	
Cheryl Koshuta, Port of Portland Jon Chandler, Oregon Builders Association	<i>Guests</i>
Karen Lewotsky, Oregon Environmental Council Cheryl Koshuta, Port of Portland	Linda Ludwig and Willie Tiffany, League of Oregon Cities
Charles Logue, Clean Water Services/ACWA	
Galen May, Associated Oregon Industries	
Craig Smith, NW Food Processors Assn Kathryn Van Natta, NW Pulp & Paper Assoc.	<i>Committee members not present</i>
David Welsh, NW Environ. Business Council	Ed Butts, Stettler Supply Company
Travis Williams, Willamette Riverkeeper	Jon Chandler, Oregon Builders Association Karen Lewotsky, Oregon Environmental Council
	Kathryn Van Natta, NW Pulp & Paper Assoc. Craig Smith, NW Food Processors Assn
<i>DEQ staff</i>	Travis Williams, Willamette Riverkeeper
Holly Schroeder	
Mark Charles	<i>Facilitator</i>
Patti Seastrom	Anne Dettelbach, Ross & Associates
Ranei Nomura	

Call Objectives

1. Establish budget outlook and discuss possible funding strategies for the ODEQ Wastewater Permitting Program. Discuss, develop approaches, options, and strategies for funding the ODEQ Wastewater Permit program.
2. Consider possible Percent Fee Increases for Wastewater Permitholders

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Welcome and Introductions

The Blue Ribbon Committee (BRC) on DEQ's Wastewater Management Program met via conference call on Tuesday, ~~March 9~~ April 20. Anne Dettelbach, Ross & Associates, facilitated the call. ~~Holly Schroeder, ODEQ, introduced the Committee to Mark Charles, whom Holly has asked to replace her as the Surface Water Program Manager. Most recently, Mark led DEQ's team to update the state water temperature criteria. Holly then explained that recent Water Quality Program staffing changes were (in part) designed to enhance program integration and collaboration.~~

Wastewater Permit Funding Mix Preliminary Areas of Convergence

This session covered BRC "areas of convergence" related to funding the DEQ wastewater program. These concepts were discussed at the March 9 conference call and March 30 face-to-face meeting and were reviewed on the call to establish operating assumptions for the day's discussions. The following points were covered.

- ~~The wastewater permitting program should continue to deal with the range and type of sources that should be accessed (or pursued) to fund the Wastewater Permit Program. Anne Dettelbach~~

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~~opened this session by sharing a few comments made by Committee members during one-on-one interviews prior to the call. These include:~~

- ~~The program should~~ be funded by a mixture of sources, including permit fees, the state General Fund, and federal funds. ~~The mix should remain at approximately 60/40: 60% funded by fees; 40% funded by other means.~~
- ~~Some members are concerned that General Fund funding will diminish or disappear.~~ All wastewater permit fees should be annualized to provide more predictable cash flow (for DEQ) and expenses (for the permitholders). Annualization does not address budget shortfalls, however. [DEQ noted further that the process of annualizing the fees is revenue-neutral. In other words, annualizing, alone, will not change what a source pays over a five-year period.]
- ~~The BRC supports DEQ establishing a simplified permit fee structure. Simplifying the permit fee structure will provide greater clarity/certainty.~~
- ~~The BRC supports authorizing DEQ to implement an annual inflator to deal with indirect costs, staff salaries/benefits, and the rising costs of materials. DEQ should be allowed to set the inflator at a level no higher than 3% (without explicit legislative approval).~~
- ~~Wastewater permit fees support the wastewater permitting program as a whole, and not any one particular program activity. [NOTE: Wastewater permit fees do not go to support related programs, such as water quality standards or TMDL development, even as these programs are closely tied to the permit program and are often implemented through NPDES/WPCF permits.]~~
- ~~Funding needs (if they exist) can be placed in one of two categories: restoration needs (2005) to address one-time/consuming balance shortfalls; and phase-in needs (2006-2008) to address funding needs associated with increasing program FTE. One member suggested that the program receive at least 50% of its funding from the General Fund.~~

In its discussion, ~~the~~ BRC members made the following points:

- ~~What happens if the permit is not renewed at the proper time? Will permitholders be expected to continue to pay the annual fee?~~
- ~~What will happen if DEQ falls behind on the watershed cycle? Will permitholders be expected to continue to pay the annual fee?~~
- ~~Will annualizing affect the overall cashflow? Has this analysis been done?~~
- ~~It will be important for DEQ to be clear about what the fees pay for/not. [NOTE: One member suggested that the report state clearly that fees help pay for an adequate, comprehensive wastewater permitting program.]~~
- ~~From a permitted entity's standpoint, annualizing the fee is better/easier for budgeting.~~
- ~~Permitholders want to ensure that water quality standards, TMDLs, and related programs are adequately funded (even if this does not happen through permit fees). Seamless program integration is critical to the success of the water quality program.~~
- ~~DEQ will be held accountable for how it uses the money—both to permitholders who pay fees and the public/Legislature who contribute through General Funds and other monies.~~

NOTE: A few BRC members indicated that they will need to check in with their constituencies, particularly re: annualizing fees. They plan to report back to the Committee at the BRC's next meeting (May 27), affirmed that the program should continue to pursue all three funding sources (and

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others, as they become available). Members indicated that General Fund monies are appropriate to support this program because the program benefits the public good. (At the same time, discharging waste to the waters is a privilege that permit holders should continue to pay to exercise.) Members did not necessarily feel the BRC should recommend that any one funding source cover X% of the budget but did recognize that **recommending a range for each funding source (especially, perhaps, the General Fund and permit fees) could be helpful.** The Committee was not ready to assign relative funding ranges during the call, however. (Ultimately, the Legislature will want to see the funding proposal in terms of percent increase for specific revenue sources.) Members also cautioned DEQ against allowing permit fees to cover too large a portion of program expenses (if only to limit permit holders' sense of entitlement/right to direct the program's priorities). Committee members were asked to consider what level/percentage of program funding the fees would have to reach to compromise the program's integrity in this fashion.

Defining and Meeting Resource Needs What Should Permit Fees Pay For?

Holly Schroeder opened this session by providing an overview of the "Estimated Permit Fee Contribution to Funding New/Restored Wastewater Program FTE" table distributed via email. Since our March 30 meeting, DEQ has updated its estimate of resources needed to restore and/or phase in FTE based on program expenditure forecasts being developed by DEQ as part of the '05-'07 budget planning process and estimated total recovery of other lost revenues. Holly indicated that the restoration package is half of what she had previously presented (in other words: 4 FTE vs. 8) both because the program has been operating at less than full capacity and because expenditures are lower than were budgeted. [NOTE: Holly also explained that the 2 FTE being introduced in 2006 are expected to perform 'data management' tasks. DEQ hopes to receive a federal grant to help the agency migrate DMR data to the DMS system in 2005. These positions would be used to maintain (not build) those data management resources.]

Holly then explained that to prepare the "Percent Fee Increase" column, DEQ took the estimated budget shortfall (i.e., estimate of needed resources to fund FTE at recommended annual levels) and applied the 60/40 ratio described above (in other words, the agency assumed 60% of FTE would be paid for out of fees; the balance would come from public monies). DEQ calculated the resulting fee increase (on an annualized basis) to be: reminding the Committee that permit fees collected by DEQ stay in the wastewater permitting program. Much of the revenue collected through fees is used to support the wastewater permit program, generally; some is targeted to support certain categories of permit holders (e.g., certain fees collected from municipalities are used only to provide support to municipality-related permit activities, such as pretreatment plan review fees). [Some BRC members had indicated during interviews that they have heard or had understood that permit fees may not always stay in the program (and thus can be used to fund activities such as water quality standards or TMDL development). Holly reiterated that this is not the case.]

Meeting participants **supported using fees to support the wastewater permitting program more broadly** (e.g., to support permitting/compliance activities as well as policy development and data management activities) and did not envision that the revamped wastewater permitting program would be run as a fee-for-service program. Members acknowledged that some unavoidable inefficiencies are inherent in the program and they are more focused on **ensuring that a stable funding mechanism is established** than on comparing ODEQ's fees and service levels to those offered by other state programs.

2005: 7%

2006: 4%

2007: 3%

2008: 1.2%

NOTE: These increases do not factor in the annual inflator.

BRC members generally supported this analytical approach and the 60/40 split for meeting program funding needs. Members made the following comments:

- Is there any way to levelize fees so that the first year's increase is not so steep?
- Some trade associations expect their members to 'push back' and encouraged DEQ to be clear that it had "looked under every rock" for programmatic efficiencies and funding sources.
- Phasing in policy staff later on in the cycle makes sense.
- Designing a solid legislative approach will be critical to ensure this concept is fully implemented. The funding approach will need to be creative. The BRC should spend time thinking/talking about this at its next meeting.

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Restructuring the Fee Table

Next, the Committee discussed how (if at all) the permit fee table should be modified. The following recommendations enjoyed general Committee support was asked to consider whether it wanted to give specific advice to DEQ re: how to simplify the permit fee table (e.g., by proposing organizing principles). The group ultimately decided that it was comfortable leaving this responsibility to DEQ.

- ◆ **Do not impose dramatic fee increases.** In the current economic climate, it is important to set fees at a level that does not drive businesses away or into debt.
- ◆ **Fix glaring inequities (if they exist) in the fee table.** (No specific suggestions were offered.)
- ◆ **Simplify the fee table** (both to provide certainty/clarity to the regulated entity and to stabilize DEQ's cashflow). Possible principles for revising the table may relate to the size of discharger, or toxicity/pollutant load of the discharge. For municipalities, the organizing principle may be principle may be population served by the facility.
- ◆ **Annualize all permit fees** (not just compliance determination). Roll up \$60 permit filing fee into \$60 permit filing fee into an annual fee as well. Annualizing the fees will make program cashflow (and permit related costs) more predictable from biennium to biennium for both DEQ both DEQ and permitholders. [Moving to a watershed approach will likewise help smooth out peaks and valleys in revenue levels.]
- ◆ **Add an annual "inflator"** linked to an accepted (simple) index (as is done for Title V permits). Modest, annual increases will be easier for permitholders to accept but may not permitholders to accept but may not represent a total solution to possible budget shortfalls.

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NOTE: The Committee recognized that annualizing permit fees may not make sense for some categories of permitholders (e.g., stormwater permits for construction sites).

NOTE: Adding an annual inflator to permit fees will require action by the Legislature and/or Environmental Quality Commission.

Follow-up Items requested by the Committee

- 1.DEQ: Talk to the Air Program and DEQ fiscal staff about how the fee inflator is incorporated into Title V permits (and elsewhere, as appropriate);
- 2.DEQ: Prepare an example annualized fee “schedule” for the BRC’s review at the March 30 meeting;
- 3.DEQ: Review proposed Implementation Approach accountability measures to ensure they set appropriate benchmarks related to service delivery and other program commitments;

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Next Steps ther Funding Sources/Issues

1. The group assigned itself homework: bring ideas to the May 27 meeting re: how to simplify the fee ramp-up so that the impact is not as dramatic in the next couple of years.
2. DEQ will draft a brief statement that articulates how it explored program efficiencies and budget options to come up with its proposal(s).
3. The BRC will continue its discussions via teleconference on May 10, 1-3pm.
4. The BRC’s next meeting is May 27 then talked about other funding issues/challenges and ways to address them. On the issue of permit modifications, members recognized the importance/pressing nature of permit modifications and suggested that permit modifications initiated by DEQ should be covered under the regular annualized fee cycle. As such, they should be factored into the current workload estimate. In contrast, the group suggested that permitholders who seek DEQ approval for a modification they initiate should pay an additional fee for DEQ to process the modification request.

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The group spent some time trying to identify other categories of dischargers (e.g., oil water separators) that may not be permitted (or may not pay sufficient fees) but did not agree on any candidates. The group also discussed the workload associated with having to develop general permits in Oregon via rulemaking.

The group discussed, and ultimately rejected, a suggestion to add a small surcharge (e.g., \$1) to water bills across the state, fearing that the option would face stiff resistance in the Legislature and by water purveyors.

Next Steps

The BRC will continue its discussions on March 30, 2004 at the offices of Stael Rives.

5. Ross & Associates will follow up with individual BRC members on specific issues of interest or concern coming out of this call.

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- 2.DEQ will follow up on action items identified in this meeting summary.